

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4330 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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MAGANBHAI SOMABHAI BARIYA

Versus

UNION OF INDIA

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Appearance:

MR ANANT S DAVE for Petitioner  
MR JC SHETH for Respondent No. 1  
NOTICE SERVED for Respondent No. 4

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CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 10/04/2000

ORAL JUDGEMENT

This case was called in the first half, but no one appeared for the petitioner or for the respondents. However the case was adjourned for the time being. In

the second half the case had been called again, but neither the counsel for the petitioner nor for the respondents are present.

Present writ petition has been filed by the petitioner seeking a direction on the respondent Union of India for filing complaint/ charge sheet before a competent Criminal Court against Shri. T.P. Bhuriya in connection with CBI Case No. 24/89. It is alleged in the writ petition that, the petitioner who is working as a Gangman in Western Railway filed a complaint against Shri. T.P. Bhuriya for taking bribe. It is also alleged that said Shri. Bhuriya was caught red-handed while taking bribe of Rs.100/- from petitioner on 29-6-1989. The matter was referred to CBI, Ahmedabad for taking further action. Accordingly the CBI has registered a case No. 24/89. Departmental inquiry has also been initiated against Shri. Bhuriya. The grievance of the petitioner is that, the CBI is not filing charge sheet against said Shri. Bhuriya in the criminal Court, and he has filed the present writ petition for a direction on the respondents to file the charge sheet in the Criminal Court.

It appears that the matter has been brought to the notice of the CBI, and the CBI has also registered the case and is investigating the mater. In addition to this, it is admitted by the petitioner that the departmental inquiry has also been initiated against Shri. Bhuriya. When both the actions are proceeding, I do not find any ground to issue any direction to the respondents to file the complaint. On the basis of the complaint, CBI will do the needful. If there is any *prima facie* case they will file charge sheet. I see no *mala fide* act on the part of the respondents. It is further admitted by the petitioner that, departmental inquiry has also been initiated against Shri. Bhuriya. Therefore, I do not find any ground to issue any direction to the respondent authority. Consequently I do not find any merit in the present writ petition and accordingly it is dismissed. Rule discharged. I make no order as to costs.

Dt: 10-4-2000

( P.K. Sarkar, J )

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